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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Treatment of Operator Services)	CC Docket No. 93-124
Under Price Cap Regulation)	
)	
Revisions to Price Cap Rules for AT&T)	CC Docket No. 93-197

COMMENTS OF
THE INFORMATION INDUSTRY ASSOCIATION

The Information Industry Association ("IIA"), by its attorneys, hereby submits its comments in the above-captioned proceedings.¹ Here, the FCC seeks, inter alia, to modify its price cap rules to offer the local exchange carriers ("LECs") greater pricing flexibility. IIA urges the Commission to condition the grant of any such flexibility upon the existence of effective competition that will protect users from unlawful discrimination while ensuring that users share in the economic benefits of a more efficient and technologically advanced network infrastructure.

¹ Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Treatment of Operator Services under Price Cap Regulation, CC Docket No. 93-124, Revisions to Price Cap Rules for AT&T, CC Docket No. 93-197, Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 94-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197, FCC 95-393, released Sept. 20, 1995; Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Fourth Further Notice of Proposed Rulemaking, FCC 95-406, released Sept. 27, 1995.

IIA is a trade association representing more than 500 entities of all sizes providing enhanced services, telecommunications and associated equipment, and print media and electronic publishing services, as well as some of the largest providers of common carrier communications services. IIA's members are in the forefront of the development and implementation of new information products and technologies. As such, IIA's members rely heavily on the services of the local exchange carriers and will be significantly affected by the outcome of these proceedings.

IIA strongly supports the Commission's avowed goal under price caps to encourage efficiencies and innovation in the provision of interstate access services. As set out below, however, any modification made to the price cap rules and regulations should satisfy minimum principles to ensure a balanced treatment of both local exchange carriers and users of their telecommunications services.

The FCC aptly stated the policy goals of LEC price cap regulation in its First Report and Order in CC Docket No. 94-1. It explained:

In the case of the LECs' interstate services, the optimal form of regulation would largely replicate the competitive outcome. Because the LECs appear to retain substantial market power in providing local exchange and access services, regulation continues to be needed to achieve the goals of the Communications Act, and to increase consumer welfare. The current LEC price cap plan represents, in large part, a program of improving consumer welfare by introducing profit incentives and price constraints that more closely replicate the

operation of competition than traditional, rate-of-return regulation. Our goal and expectation were that, by easing restrictions on profits while setting price ceilings at a challenging but reasonable level, the LECs would have the incentive to become more efficient and innovative at the same time that customers benefitted from lower rates.²

IIA submits that any modifications to the price cap regulations to offer pricing flexibility to the LECs must include appropriate constraints to meet these agency goals.

First, the FCC should condition any grant of additional pricing flexibility to LECs on the existence of effective competition in the relevant market. In this regard, it is essential for the Commission not merely to evaluate the "existence" of competitive alternatives, but also to assess the "viability" of competitors to offer reasonably similar substitute services of a scope comparable to that provided by incumbent LECs throughout the territory and service spectrum governed by the pricing flexibility authorized.

Second, any modification to the price cap rules that eliminates a sharing requirement must ensure that a fair share of expected efficiency and other benefits are returned to ratepayers by some appropriate means. It is noteworthy that most of the major LECs have already chosen new earnings/productivity targets that eliminate sharing obligations. Therefore, any additional

² CC Docket No. 94-1, First Report and Order, FCC 95-132, released Apr. 7, 1995, ¶ 92.

rule changes should be carefully evaluated so as not to further reduce consumer welfare.

Third, the Commission should schedule regular and comprehensive reviews of its rules to consider any further efforts to remove price cap constraints rather than encourage LECs to seek waivers as needed. Changes should not be made on an ad hoc basis without a full analysis of all implications, as to do so could promote confusion and manipulation that may result in abuse.

Fourth, any grant of additional pricing flexibility should protect existing customers that cannot easily or economically switch carriers or services. To this end, the FCC should recognize and accommodate the plight of such users by ensuring that their rates do not directly or indirectly cross-subsidize the competitive pricing efforts of price cap carriers for other services or markets.

Finally, the FCC should provide meaningful incentives for increased LEC earnings to be invested in the network. Currently, there is no regulatory requirement that the LECs return some of their increased earnings into their networks, rather than paying all such earnings to shareholders or investing in non-network ventures. Absent appropriate and direct incentives, the agency cannot be confident that all LECs will make the investments needed to meet national infrastructure goals.

For the foregoing reasons, IIA urges the Commission to ensure that any modifications to its price cap rules are based upon the principles described above in order that ratepayers as well as carrier shareholders will benefit from increasing efficiencies in the provision of telecommunications services to the public.

Respectfully submitted,
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